



Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation II (FR II; OMB No. 7100-0349).

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by FR II, by any of the following methods:

- Agency Website: <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- E-mail: regs.comments@federalreserve.gov. Include the OMB number or FR number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684.

Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement, and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal under OMB Delegated Authority to Extend for Three Years, Without Revision, the Following Information Collection:

Report title: Recordkeeping and Disclosure Requirements Associated with Regulation II.

Agency form number: FR II.

OMB control number: 7100-0349.

Frequency: On occasion.

Respondents: State member banks, national banks, insured nonmember banks, savings associations, and federally-chartered credit unions.

Estimated number of respondents: Implement policies and procedures, 1; Review and update policies and procedures, 527; General recordkeeping, 527; Annual notification and change in status, 527.

Estimated average hours per response: Implement policies and procedures, 160; Review and update policies and procedures, 40; General recordkeeping, 1; Annual notification and change in status, 1.

Estimated annual burden hours: Implement policies and procedures, 160; Review and update policies and procedures, 21,080; General recordkeeping, 527; Annual notification and change in status, 527.

General description of report: Regulation II – Debit Card Interchange Fees and Routing (12 CFR part 235) implements, among other things, standards for assessing whether interchange transaction fees for electronic debit transactions are reasonable and proportional to the cost incurred by the issuer with respect to the transaction, as required by section 920(a) of the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693o-2(a)).

Regulation II limits the interchange transaction fee that covered issuers (issuers that, together with affiliates, have assets of \$10 billion or more) can charge for electronic debit transactions. Under the rule, a covered debit card issuer is allowed to receive or charge an interchange transaction fee in the amount of 21 cents plus 5 basis points multiplied by the value of the transaction. In addition, a covered issuer may receive or charge an amount of no more than 1 cent per transaction (the “fraud-prevention adjustment”) for the costs associated with preventing fraudulent electronic debit transactions (fraud-prevention adjustment) if the issuer complies with the standards and requirements set forth in the rule. In addition to these interchange fee provisions, Regulation II prohibits any issuer (i.e., not just covered issuers) or payment card network from directly or indirectly restricting the number of payment card networks on which an electronic debit transaction may be processed to less than two unaffiliated networks, and from directly or indirectly inhibiting the ability of a merchant to direct the routing of electronic debit transactions for processing over any payment card network that may process such transactions. Finally, Regulation II prohibits any issuer from receiving net compensation from a payment card network with respect to electronic debit transactions or debit card-related activities within a calendar year.

Legal authorization and confidentiality: The Recordkeeping and Disclosure Requirements

Associated with Regulation II are authorized by section 920(a)(3) of the EFTA.¹ The fraud-prevention and disclosure requirements are additionally authorized by section 920(a)(5) of the EFTA.² Regulation II's general recordkeeping requirement for issuers is mandatory. Regulation II's fraud-prevention recordkeeping requirements and disclosure requirements are required to obtain a benefit.

¹ 15 U.S.C. 1693o-2(a)(3) (authorizing the Board to prescribe regulations regarding interchange transaction fees and require issuers or payment card networks to provide to the Board such information as deemed necessary).

² 15 U.S.C. 1693o-2(a)(5) (permitting the Board to allow for the fraud-prevention adjustment and condition it upon compliance with fraud-related standards promulgated by the Board).

The Recordkeeping and Disclosure Requirements Associated with Regulation II are generally not submitted to the Board or to any of the federal financial regulatory agencies. In the event that the Board obtains such information, it may be kept confidential under exemption 4 of the Freedom of Information Act (FOIA) to the extent that it contains commercial or financial information both customarily and actually treated as private.³ If such information is obtained through the examination or enforcement process, it may be kept confidential under exemption 8 of the FOIA.⁴

Board of Governors of the Federal Reserve System, November 29, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

Billing Code 6210-01-P

[FR Doc. 2021-26319 Filed: 12/2/2021 8:45 am; Publication Date: 12/3/2021]

³ 5 U.S.C. 552(b)(4).

⁴ 5 U.S.C. 552(b)(8).